

**JUDICIAL COMMITTEE ON INFORMATION TECHNOLOGY  
MEETING MINUTES**

**June 25, 2010**

**10:00 a.m.**

**Texas Association of Counties, Austin**

**I. Call to Order**

Chair Simmons called the meeting to order at 10:13 a.m.

JCIT Members attending:

Chair, Justice Rebecca Simmons  
Honorable Mike Cantrell  
Honorable Gary Harger  
Honorable Adele Hedges (via phone)  
Honorable Amalia Rodríguez-Mendoza  
David Slayton  
Ed Wells  
Bob Wessels

JCIT Liaison Members attending:

Honorable John Dietz  
Honorable Gary Fitzsimmons  
Honorable Blake Hawthorne  
Gary Hutton  
Jay Johnson  
Carl Reynolds  
Honorable Frank Summers  
Mark Unger  
Dennis Van Metre

Others attending:

Tammy Carter, CaseFileXpress  
Mike Dunn, Sierra Systems  
Mark Erwin, Travis County  
Janet Gilmore, DIR  
Doug Gowin, Tarrant County  
Charles Gray, CUC  
Katie Henry, Senator Wentworth's office  
Gayle Latham, CIRA  
Jeff McCartney, NIC  
Mark O'Neal, Tarrant County  
Ellen Pate, DIR  
Troy Pickett, Sierra Systems  
Brad Smith, Mentis Technology  
Scott Stahl, NET Data  
Jake Stine, NIC

Christopher Summers, Travis County Justice Courts  
Matt Ueckert, McLane Advanced Technologies  
Martin Zelinsky, DIR

OCA Staff attending:

Yolanda Alemán  
Mary Cowherd  
Bruce Hermes  
Scott Jones  
Thomas Sullivan

**II. Housekeeping**

Chair Simmons offered the minutes from the April 30, 2010 meeting for approval. Bob Wessels moved to adopt the minutes, and Judge Harger seconded. The members adopted the minutes.

**III. Reports from Subcommittee Chairs**

*a. E-filing subcommittee report*

Amalia Rodriguez-Mendoza provided an update on the e-filing subcommittee. The subcommittee held a joint meeting with the standards subcommittee to talk about the cover sheet and worked with David Slayton on the survey. There were some interesting results in the survey.

Bruce Hermes discussed the survey results. The e-filing survey was sent to the Bexar County and Lubbock County bar associations a couple weeks ago. Roughly half of the respondents have used e-filing. For those who have used e-filing, their main impressions in order of most popular response, (1) they can do everything from their computer, (2) it is easy to use, and (3) it is cost efficient. For the respondents who haven't used e-filing, they said they didn't use it because either they were not aware of e-filing or they prefer to file in person. Bruce pointed out there is a marketing opportunity to raise the awareness of e-filing. There was a question from Carl Reynolds about the make-up of the bar members who received the survey. He wondered if the criminal lawyers were the ones who were not aware of e-filing. It was estimated that criminal lawyers make up less than 10% of the total membership of the surveyed bar associations. Criminal lawyers are more likely to belong to the Criminal Defense bar. Eighty percent of the respondents who have never used e-filing before said they would be likely to use e-filing if it were free. Bruce said that the survey results could be sliced up more if further analysis is needed.

Amalia said one of the first things to do for criminal e-filing is to identify the rule-making authority and then create the rules. Carl Reynolds recommended that the Court of Criminal Appeals jointly adopt the rules for criminal e-filing.

*b. Case Management subcommittee report*

David Slayton provided an update on case management. He said that not a lot has been done since the last meeting as the subcommittee is waiting to see what direction the e-filing subcommittee takes. An example is the fee structure – should it include something to pay for case management systems.

The subcommittee has been looking at what CUC and TAC has done so far.

c. Standards subcommittee report

Bob Wessels updated the committee on the work of the Standards subcommittee. They have met a couple times to look at standardized case types and document types. Everyone agrees the case types identified on the OCA cover sheet should be adopted with the addition of small claims for JP. This would give standardized case types throughout the process including the reporting to OCA. The subcommittee would then work the document types within these categories. An update to Section 4 of the e-filing rules has been drafted to include this recommendation.

Document types are a little different. CUC TechShare has been working with a group of counties to develop the Texas Standard Configuration, which will contain a uniform set of document types to cover the entire case management system. This document was provided to the subcommittee, who reviewed it on June 24. The list included several documents that come after filing, and these will not need to be included. The subcommittee needs to pare down the list to something that can be vetted by other people. The district and county court clerk's office of Fort Bend County have been very involved in the project, and will provide a first cut of the list around mid-August. Once the subcommittee receives it, they will schedule a meeting for a larger group to review. The feds use fifteen document types, while some counties in Texas use several hundred. The group will need to find the right mix between these two extremes. Counties will be able to extend beyond the base list if they want to get more granular, most likely in the area of motions and orders.

There was also a discussion about criminal e-filing and what standards framework should be used. The consensus was there should be a single e-filing system. The case cover sheet should be electronic, allowing the user to select the case type and then see the related choices unique to that case type. They are looking specifically at the Oasis standard for e-filing. The goal should be to blend Oasis Version 4 standards with NIEM, so all standards mesh and support one another. CUC has offered to use Oasis for e-filing in the juvenile case management system.

Charles Gray spoke about the Juvenile Case Management system. CUC had a working group meeting with CUC counties interested in criminal e-filing, and they are interested in working with JCIT on moving this forward. The group is about to kickoff the development of the core module around July 12. The workgroup wants to follow the Oasis standards. The goal is to allow counties to interact with JCMS through their county systems. This is a pilot to see if it will work on a larger scale.

Chair Simmons asked who was ready to move to e-filing for criminal cases. David Slayton said the Lubbock District Attorney would probably be interested. They are entirely paperless otherwise, and it is probably an education issue. Gary Fitzsimmons said the Dallas system is under development and they are working with the District Attorney intake unit on this issue. Tarrant County is moving forward towards criminal e-filing. Harris County has had electronic filing from law enforcement since 1995 and they are currently replacing all their case management systems. As part of that project, they are adopting a strategy for paper-on-demand. One issue to deal with is how they redesign docket calls to keep them moving efficiently as they do now.

Gary Fitzsimmons brought up that expungements, non-disclosures, and ODLs are heard by criminal courts for civil actions. There is no easy way to get the documents from civil to criminal courthouse. He thinks this process could benefit from e-filing.

Next step might be a joint meeting with e-filing subcommittee around the end of August just to discuss

criminal e-filing business process. The goal is to know what standards need to be adopted to support that business process.

#### **IV. OCA Strategic Plan & LAR**

Carl Reynolds discussed the strategic plan. A one-page excerpt of the strategic plan was included in the meeting packet. OCA is not required to submit a strategic plan but thinks it is a good business practice to do so. The entire strategic plan can be found on the OCA home page at [http://www.courts.state.tx.us/oca/Strategic\\_plan/stratplan10-15.pdf](http://www.courts.state.tx.us/oca/Strategic_plan/stratplan10-15.pdf). Chair Simmons reviewed the strategic plan before it was published and the plan was shared with Chief Justice Jefferson. The excerpted section foreshadows where JCIT is headed. It is about making e-filing a free model. The strategic plan has been published but JCIT should tweak the information as they move forward in putting their plans together.

There was lengthy discussion about the e-filing fee and how best to proceed with it. Judge Dietz mentioned that Travis County did a study that found between 42 and 48% of filers were paying filing fees, the rest were government or Pro Se. The expectation is that the number of paying filers will continue to decline. Based on this, it may make the most sense to move away from a filing fee.

Judge Dietz also mentioned that Travis County pays several million dollars a year to store paper. He suggested that an economic case could be made for making e-filing free if it will result in storage cost savings. Gary Fitzsimmons said Dallas is paying \$220 per square foot for storage costs. Carl said it would be helpful if some of the counties could provide data on their storage fees, Gary Fitzsimmons volunteered to oversee the collection of this data from the large counties.

Bruce Hermes asked if e-filing was free to the filer, would the counties be willing to pay for the e-filing costs, in order to more promptly realize savings for the county in handling and storing paper. Some members said that it might work if there was a mechanism to make it happen. Judge Summers said to consider all the rural counties and how money might be a bigger issue for them. Mark Unger suggested that a solution might be to set up a statewide system that allows the lawyers to retrieve data. Carl Reynolds thinks that the document retrieval system would be a separate system with its own set of costs. Chair Simmons mentioned that disaster recovery costs for storing additional paper copies should also be considered. Judge Dietz pointed out that some filings are more intensive than others are, and that a one-size solution might not fit all. It was mentioned that the six largest counties have around two-thirds of the state population and perhaps the state could help the remaining counties by providing something like a central repository that does the document management service. The cost could be shared among the different counties. Bruce pointed out that PACER model is a centralized index for searching cases but that the information is retrieved from the individual court's repository. One solution would be a standard way of communicating with the existing court systems.

Mark Unger asked if a document retrieval system could be built using the existing e-filing model. Carl Reynolds didn't feel that the e-filing model was at the level needed for a document retrieval system. Bruce said if it was decentralized with a standard communication protocol, then each county could still maintain their own technologies and fees. Small counties without a system could perhaps band together and work through CIRA, TAC, or another COG to develop what they need. Bob Wessels said that some counties already have subscriber fees for retrieving documents and the counties wouldn't want to give up those existing fees. Jake Stine mentioned that NIC has a document retrieval system in two other states – Kentucky and Nebraska, and perhaps an existing solution could be leveraged for

Texas. NIC is looking into how the Kentucky system might work for Texas. There was discussion about how lawyers are more willing to pay for document retrieval than they are for e-filing, because the document retrievals more directly affect their legal work than the e-filing does.

Carl Reynolds reported that OCA is working on the LAR, and that this year the agencies are being told to cut the budget by five percent and articulate the impact of a ten percent cut. For exceptional items, the first priority will be to ask for restoration of the cut items, followed by new items. The possible new items would be \$30 million for the Task Force on Indigent Defense, and JCIT's request for e-filing and maybe the document retrieval system. Carl would like to have any information from the JCIT by August 1, but doesn't expect it to be too detailed. Perhaps the subcommittees could talk to other states to get some estimates for what the costs might be. Judge Dietz suggested putting something for the first two years that gets things moving, rather than waiting for two years before even starting the process.

There was discussion about existing records preservation fees and if they could be used to help with funding of a state-level repository. There is another task force, the Court Records Preservation task force, that could be an ally.

Another issue that is preventing some courts from going paperless is the state library's requirement for storing records on microfilm. It was suggested that perhaps this could be looked at as a shared service provided to the courts, as part of the central repository. This might provide a big cost savings.

Next steps: Need to determine if we need some money, what we could do in the next two years and what would it cost to get there.

Question: How to make this revenue-neutral at the state level?

## **V. Open Discussion**

Jake Stine provided an update on e-filing. 47 counties, 66 clerks, 355 courts and 74% of the state population are now covered by e-filing. The month to month e-filing volume decreased for the first time in a while – it was an across the state decrease, not attributable to any single county.

Currently an average of 34,700 e-filings are occurring each month. The system can handle around 40,000 filings a month before the system is impacted. NIC is expanding capacity to 80,000/month by mid-July. NIC is also looking at upgrading the framework and operating system to further increase efficiency. Long term, they are looking at rewriting the application, adding more capacity, and adding new features.

Indigent filing is scheduled for an October 2010 release. NIC gathered information from Texas Rio Grande Legal Aid and Travis County for indigent e-filing. Three service providers will pilot. Judge Dietz recommended that it be piloted in a county like Travis County. There was discussion about the process for indigent e-filing and some concerns about how that will work.

Next Jake talked about how government e-filing works today. Government e-filers have three options today. They can subscribe to one of the seven existing service providers, they can create their own service provider and file at a discounted \$2 Texas.gov rate, or they can e-file to a government

jurisdiction (in which case the court costs and count e-filing fees are zeroed out). A new proposal would be to use a Texas.gov filing portal that is for government only and the \$4 fee is zeroed out. It could mimic the indigent e-filing portal. There was some discussion about how the government entity would be identified. The next steps for government filing are a feasibility study and defining who/what is a government entity. Chair Simmons suggested looking at current statutes to see what is out there for defining a government entity from which the district clerk doesn't get filing fees.

Chair Simmons reminded the subcommittees they will need to meet and determine their funding requests. She will follow-up with each group.

## **VI. Recognition of term completion**

Chair Simmons mentioned that this would be the last JCIT meeting for Fiscal Year 2010, and she recognized the term completion of the 2010 Committee and Advisory Members.

Chair Simmons adjourned the JCIT meeting at 12:15 p.m.